DOCUMENT RESUME

ED 256 075 EA 017 710

AUTHOR Greene, Brenda Z.
TITLE Protect Against Personal Injury to Limit Your Liability.
INSTITUTION National School Boards Association, Alexandria, VA. Educational Policies Service.
PUB DATE May 85
NOTE 5p.
PUB TYPE Guides - Non-Classroom Use (055) -- Journal Articles (080)
JOURNAL CIT Updating School Board Policies; v16 n5 p1-3 May 1985

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Accident Prevention; Athletes; Athletics; *Court Litigation; Elementary Secondary Education; Emergency Programs; Gymnasiums; Hazardous Materials; *Injuries; Maintenance; Physical Examinations; Playgrounds; Purchasing; *Recordkeeping; School Policy; *School Safety; School Shops; School Supervision; Science Laboratories; Stages (Facilities)
IDENTIFIERS *Negligence

ABSTRACT

Accidents and injuries involving students, employees, or others using school facilities or equipment can result in lengthy and costly litigation. A proven way to reduce potential accidents and injuries is to work to eliminate the circumstances in which accidents occur. It is important to identify risks; the areas with the highest accident potential are: playgrounds, gymnasiums and athletic fields, industrial art shops, science laboratories, theater stage areas, and lunchrooms. School systems can protect against negligence charges by identifying risks and giving high priority to preventing injuries through established policies and regulations addressing accident prevention. Failure to supervise properly is the basis for most negligence suits. Providing proper supervision gives the school system a defensible position. Before students can participate in sports, a physical examination should be required. Regular inspections for hazardous conditions are essential. Established special emergency procedures with alternative backup plans are essential. There should be a process established for documenting all accidents and injuries; board members should be notified of serious injuries. Periodic reports from legal counsel on legislation and court decisions that may influence local safety policies and procedures are also helpful. (MD)

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Updating SCHOOL BOARD POLICIES

Volume 16/Number 5/May 1985

A component of the Educational Policies Service of the National School Boards Association provided to NSBA Direct Affiliates and EPS subscribers

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Too often, accidents and injuries involving students, employees, or others using school facilities or equipment result in lengthy and costly litigation—time and money that could be spent on instruction. It would be unrealistic to expect that all injuries could be avoided. But a proven way to *reduce* the potential for accidents and injuries—and the school system's liability—is to eliminate as much as possible the circumstances in which injuries occur.

Identify risks

Broken stair rails and falling ceiling tiles obviously are accidents waiting to happen. Failure to repair unsafe facilities, or to keep people away from the danger until it is removed, will leave your school system in a vulnerable position if an injury results.

But deteriorating facilities aren't all you need to watch for. There are many risks present in school facilities and during activities that can't be eliminated because they are inherent in the standard school program. Instead of eliminating them, you should provide protection against them.

Among the school areas where the potential for accidents is highest are:

- playgrounds
- gymnasiums and athletic fields
- industrial arts shops
- science laboratories
- stage areas of theatres
- lunchrooms.

You'll also need to protect against such obvious risks as accidents caused by students running in the hallways and on stairs, or people slipping on ice on the school sidewalk.

The key to reducing risk is establishing rules (e.g., no running in the halls), making sure everyone understands the rules (i.e., explaining the rules and providing them in written form to students and staff), and enforcing the rules (e.g., assigning staff to supervise student behavior in the halls).

Commit to safety in policies

School systems protect against charges of negligence by identifying risks and giving a high priority to preventing injuries in their policies and regulations. For example:

- policies on purchasing materials and equipment and contracting for construction should establish safety as a primary criterion for selection;
- policies on maintenance of facilities and equipment should require a regular maintenance schedule and written service/repair records;
- policies on storage of hazardous materials, such as chemicals for the instructional program or for building maintenance, should designate how access will be controlled and under what circumstances the materials can be used;
- policies on supervision of students and job descriptions that assign supervisory responsibilities should identify who is responsible for student safety and how that responsibility is to be carried out;
- policies on reporting accidents and injuries should include a procedure for documenting all incidents as well as a commitment to use collected information to prevent future accidents of the same nature.

Another area to address in policy is the control of access to and operation of school equipment. Policy should designate whether and when students will be permitted to transport or operate equipment. So much school equipment, from folding cafeteria tables to heavy stage lights, can cause injury if not handled properly. While adults might know enough to ask for help when something is too heavy to lift or move, there's no guarantee that students will recognize a risk or question a teacher's request to do a job.

Last October, for example, a seven-year-old Ohio girl was killed when a television monitor fell on her head from the top shelf of the video equipment cart she was transporting between classrooms. What had been assigned as a special privilege resulted in a tragic accident. To avoid similar accidents, some school systems are requiring that special stickers be placed on equipment that should be moved or handled *only* by adults.

Provide supervision

It's a given that all injuries can't be foreseen. A teacher assigned to supervise playground activities, for example, cannot guarantee that students won't get hurt—even if the teacher fulfills the assigned supervisory duties.

Nevertheless, failure to supervise properly is the basis for most negligence suits that school systems face. While providing supervision to the extent possible won't eliminate potential litigation, it will give the school system—and individuals involved—a defensible position.

When any injury does occur, ask:

- Would more careful supervision have prevented the accident?
- Could the resulting injury have been foreseen?
- Is there a direct, causal relationship between a breach of supervisory duty and the resulting injury.

If the answer to any of these questions is "yes," it would be in order to review procedures. Perhaps there

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should be more supervisors present for certain activities or in certain areas of the school. Perhaps certain activities should be eliminated if adequate safety cannot be provided under existing conditions. Perhaps students need increased safety education and awareness of rules and the reasons for them.

Contributory negligence

Sometimes the injured person contributes to the negligence that results in the injury. (The courts usually don't assign contributory negligence to very young children, but have done so when older students were involved.)

Robert Russell, former Fairfax County (Va.) secondary school principal and currently superintendent of Fairfax City (Va.) Public Schools, remembers a student injury that resulted directly from the student's voluntary action.

"While walking downstairs, the student, who was wearing a new ring," recalled Russell, "jumped up with his arm extended to knock down a tile from the suspended ceiling. His ring got caught on the lip of the tile frame and the skin was ripped from the boy's finger. The lawsuit contended that the boy was going down the stairs normally," Russell said, "which we were able to prove was impossible considering the height of the ceiling. But the insurance companies settled out of court anyway."

Establish procedures

"There's no question that the first thing to do in case of an accident is to take care of the injured person," said Russell. That includes applying first aid and calling an ambulance when necessary.

"But you also have to document the incident as much as possible—in writing—in case a lawsuit is filed against the school system or individuals." Sometimes lawsuits aren't filed for several years, and memory will not serve as a useful defense.

Russell suggests designating someone immediately following an accident to get written statements from eyewitnesses. School systems also should provide a standard accident checklist for principals to fill out within 24 hours.

"And," Russell added, "safety inspectors should be called in to examine the accident site and identify any existing hazards."

Regular inspections

School staff always should be on the lookout for hazardous conditions such as puddles of water, frayed electrical wires, cracked windows, or protruding nails. They should know to report any problems promptly so that safety measures can be taken until the condition is remedied.

But regular inspections are essential. In addition to inspections conducted by the school principal or facilities staff, it's a good idea for each school to have a safety committee to provide ongoing surveillance of the school environment.

"We all have blind spots," said Russell, "and every school needs a safety committee to find the problems missed by people who spend all their time in the building." The former principal's school safety committee included parents, and Russell made a point of rotating membership to guarantee "fresh eyes."

Protect athletes from injury

Whether swinging a baseball bat, going head to head on the 50-yard line, jumping hurdles, or performing other feats of physical prowess, student athletes are vulnerable to injury—sometimes disabling or fatal injury. To safeguard against such injuries students should have annual physical exams, trained staff should be provided, and equipment and facilities should be selected and maintained with safety in mind.

In addition, parental permission should be required before students can participate, as should assurance that the student is covered by accident/injury insurance.

Require physicals

Before students can participate in sports activities they should be required to pass a physical examination. Some school systems accept a general health checkup by the school nurse. Others require that an examination be done by a health department physician or family doctor. State high school athletic leagues may have minimum standards.

But some physicians think more than the traditional examination should be required. Last year, students from two Connecticut towns (Seymour and Ansonia) who wanted to participate in varsity athletics programs had thorough screenings, including electrocardiagrams and blood and urine tests. The impetus for the screenings was the death of a student football player in Yonkers (N.Y.) the previous year. The student's heart problem hadn't been revealed during the health-screening provided by his school.

Of the more than 350 Connecticut youngsters examined, three were found to have abnormal heart rhythms that were cause for concern, three cases of previously undiagnosed anemia were discovered, and several students had mild cases of hepatitis.

The in-depth screenings were set up by William Silberberg, who serves as physician for the high schools in both towns, in cooperation with the local hospital. Costs that couldn't be reimbursed by medical insurance were absorbed by the hospital.

Provide trained staff

Coaches need special skills beyond their sports, teaching, and leadership skills to provide adequate protection for student athletes. They need training in first aid, the care and prevention of athletic injuries, understanding of their supervisory responsibilities, and knowledge of special training and conditioning techniques that will keep students injury-free.

An increasing number of school systems are providing extra support by

Updating School Board Policies is published eleven times annually and provided to every board member and the policy administrator of school districts that are members of the National School Boards Association's Direct Affiliate Program or subscribers to NSBA's Educational Policies Service. EPS Staff: Dale Gaddy, director, education and management services department; Brenda Z. Greene, editor; Carol MacDougall, editorial assistant; Eve Shepard, clearinghouse manager.

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employing athletic trainers who have specific knowledge about training and conditioning for sports activities and treatment of minor injuries. In addition, on-site physicians are being provided during competitions as well as during practice sessions.

Special emergency procedures

The need to safeguard against personal injuries carries over to protecting large groups of people from injury during emergencies such as fire, tornadoes, and earthquakes. Preparation for these kinds of disasters should include rehearsals.

Anyone who has attended school is familiar with fire drills. At a prearranged signal, everyone leaves the building in an orderly fashion by the closest fire exit and waits in a predesignated area until told that it's safe to return. Staff members know what to do and how to do it; they make sure that students learn the procedures through repeated drills.

Have a backup plan

But relying on one standard plan isn't enough; alternative plans should be developed.

A hostage situation, for example, probably would call for sealing off that part of the building in which the hostage was being held. Other conditions that make having an alternative or backup plan desirable are impassable exits, the absence of personnel with assigned emergency duties, or failed alarm systems.

Sometimes, even a backup system isn't fail-safe. Evacuation of more than 1,700 students and school personnel during a recent fire at Anacostia High School (Washington, D.C.), for example, was accomplished by administrators going from room to room when the standard warning system *and* the backup alarm both failed.

"It was reminiscent of 'The House That Jack Built,'" said school system spokesperson Janis Cromer. "An earlier fire had damaged the alarm system," she explained, "and, on the day of the most recent fire, staff arrived to find the bell system and telephones out of order due to water damage from a leaky roof."

Make staff accountable

Emergency preparedness plans should identify who is responsible for each aspect of the plan, from sounding the alarm to turning off utilities to calling appropriate outside help. Seeking assistance from local fire protection and police authorities in developing plans is a good idea because it ensures compliance with local safety regulations.

The key to making emergency procedures work is to ensure that everyone understands them—and the backup plans—and their assigned roles in following them. Staff members should be briefed about procedures and their individual responsibilities at the start of the school year. They also should be given the directions in writing, and procedures should be posted in each room as well. In addition, procedures should be reviewed periodically and revised when necessary.

Be on guard against complacency by making sure that personnel will react to alarms quickly during both scheduled drills *and* the real thing. Delay caused by a teacher who ignores an alarm because "a fire drill wasn't scheduled" could prove fatal.

Know what's happening

Although it shouldn't be necessary for board members to be notified every time there is an accident or injury, you should at least be aware of the more serious injuries.

"It's always a good idea for board members to be ahead of the phone calls from parents," said one Ohio board member. "Claiming ignorance of a student injury sends a negative message to the community."

At a minimum, the board should ensure that there is a process for documenting responsibility and conditions for all accidents and injuries. Insurance agents or safety consultants can help in developing reporting procedures to record information that will be important if personal injury claims and/or a lawsuit is filed.

The school system also should make sure that staff members know how to prevent liability actions by providing inservice programs and written communications. If a certain piece of equipment has caused an injury in another school system, staff should be notified that extra precautions are in order or that the equipment won't be used anymore.

Staff also should be aware of the amount and type of insurance that the school system provides, if any, to protect its employees against potential negligence claims. In states that still provide sovereign immunity to school systems, that immunity does not extend to employees. In effect, there's no one else to sue and employees are placed in greater jeopardy than if the school system could be sued as well. The school system should provide adequate protection for its employees or advise them to seek coverage individually or through their professional organizations. In those sovereign immunity states where save-harmless provisions have been enacted—the state pays certain costs for employees found negligent—employees should be aware of the law's provisions.

In addition, board members should stay up to date on legislation and court decisions that may influence local policies and procedures regarding safety and liability. Periodic reports from your legal counsel on liability and negligence decisions will help, as will reading education publications. ■